

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:07-CR-41-D
No. 7:14-CV-81-D

ELSON PRESSLEY,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

On December 23, 2009, this court denied Elson Pressley's ("Pressley") motion to vacate, set aside, or correct his sentence. See [D.E. 43]. On April 30, 2014, Pressley filed another section 2255 motion. See [D.E. 45]. Pressley, however, failed to obtain the required authorization from the United States Court of Appeals for the Fourth Circuit before filing his latest motion. See 28 U.S.C. § 2244(3)(A) ("Before a second or successive [habeas corpus application] is filed in the district court, the applicant shall move the appropriate court of appeals for an order authorizing the district court to consider the application"); see, e.g., Burton v. Stewart, 459 U.S. 147, 152–53, 157 (2007) (per curiam); United States v. MacDonald, 641 F.3d 596, 603–04 (4th Cir. 2011); United States v. Winestock, 340 F.3d 200, 206–07 (4th Cir. 2003); In re Vial, 115 F.3d 1192, 1194–95 (4th Cir. 1997) (en banc). Accordingly, this court lacks jurisdiction to review the motion. Thus, the section 2255 motion is dismissed, and Pressley may seek authorization from the Fourth Circuit.

A certificate of appealability shall not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A petitioner satisfies this standard by demonstrating that reasonable jurists would find that an assessment of the constitutional claims is

debatable and that any dispositive procedural ruling dismissing such claims is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). A reasonable jurist would not find this court's dismissal of Pressley's section 2255 motion debatable. Accordingly, the court DISMISSES the motion [D.E.45] and DENIES a certificate of appealability. See 28 U.S.C. § 2253(c).

SO ORDERED. This 27 day of June 2014.



JAMES C. DEVER III
Chief United States District Judge